



United States Department of the Interior

Fish and Wildlife Service Arizona Ecological Services Office

9828 North 31st Avenue

Phoenix, Arizona 85051

Telephone: (602) 242-0210 Fax: (602) 242-2513



AESO/SE
02EAAZ00-2017-I-0805

June 12, 2017

Ms. Nancy Rumrill
U.S. EPA Region IX, (WTR-3-2)
75 Hawthorne Street
San Francisco, California 94105

Dear Ms. Rumrill:

Thank you for your correspondence of April 14, 2017, received on April 14, 2017. This letter documents our review of the proposed issuance of a Underground Injection Control permit to Excelsior Mining Arizona, Inc. for the Gunnison Copper Project, located northeast of Dragoon, in Cochise County, Arizona, in compliance with section 7 of the Endangered Species Act of 1973 (ESA) as amended (16 U.S.C. 1531 et seq.). Your letter concluded that the proposed project may affect, but is not likely to adversely affect the lesser long-nosed bat (*Leptonycteris yerbabuenae*), a species listed as endangered under the ESA. We concur with your determination and provide our rationale below. You also concluded there would be “no effect” to the yellow billed cuckoo (*Coccyzus americanus*), Aplomado falcon (*Falco femoralis septentrionalis*), northern Mexican gartersnake (*Thamnophis eques megalops*), Chiricahua leopard frog (*Lithobates chiricahuensis*), Wright’s marsh thistle (*Cirsium wrightii*), and jaguar (*Panthera onca*). Species with “no effect” determinations do not require review from the Fish and Wildlife Service, and are not addressed further.

Description of the Proposed Action

A complete description of the proposed action is found in your April 14, 2017 correspondence and the December 15, 2016 biological evaluation (BE) included in your April 14, 2017 correspondence and these documents are included by reference. In short, the Environmental Protection Agency is reviewing an application by Excelsior Mining Arizona, Inc. for an area Class III UIC permit to install a wellfield consisting of injection and recovery wells, hydraulic control wells, and observation and monitoring wells in an area of approximately 192 acres for the in-situ recovery of copper.

The proposed project will be implemented in three production stages over 20 years, with a total operational life of 23 years. Stage 1 will be years 1 – 10; Stage 2 will be years 11 – 13; and Stage 3 will be years 14 – 20. Multiple mining blocks will be active during each stage, increasing production as each stage is implemented. As mining of individual blocks is completed, the mining operations will be followed by an aquifer rinsing period while mining proceeds to subsequent blocks. A post-production aquifer rinsing period for the last mining block is anticipated to be completed by year 23.

Project facilities will include wellfields with related pipes, power supply, and header houses; an interconnecting pipeline corridor; pipe conduit under I-10; drain-down pond, access roads and guardhouse; and an evaporation pond. For Stages 2 and 3, some additional SXEW processing facilities with related infrastructure, power supply, office building, and process ponds will be needed.

The project area is currently characterized by undeveloped range lands that have been used historically for ranching, mining, and recreation. Field surveys for listed, candidate and 10(j) experimental population species were conducted from 2011 – 2016. No such species were detected, although some forage species (agaves) for the lesser long-nosed bat were documented at low densities.

DETERMINATION OF EFFECTS

We concur with your determination that the proposed action may affect, but is not likely to adversely affect the lesser long-nosed bat for the following reasons:

- It is extremely unlikely that lesser long-nosed bat roosts currently occur in the action area of the proposed project based on our records of known roost sites. Therefore, any potential direct or indirect effects at roost sites are discountable.
- Project effects are likely to be limited to the loss of or impacts to lesser long-nosed bat forage resources (agaves). Because of the low density of forage resources likely to be impacted, these effects are insignificant.

As indicted in the BE, certain project activities may also affect species protected under the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. sec. 703-712) and/or bald and golden eagles protected under the Bald and Golden Eagle Protection Act (Eagle Act). The MBTA prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when authorized by the FWS. The Eagle Act prohibits anyone, without a FWS permit, from taking (including disturbing) eagles, and including their parts, nests, or eggs. If you think migratory birds and/or eagles will be affected by this project, we recommend seeking our Technical Assistance to identify available conservation measures that you may be able to incorporate into your project.

For more information regarding the MBTA and Eagle Act, please visit the following websites. More information on the MBTA and available permits can be retrieved from

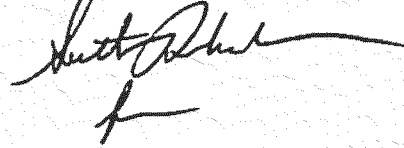
<http://www.fws.gov/migratorybirds> and <http://www.fws.gov/migratorybirds/mbpermits.html>.

For information on protections for bald eagles, please refer to the FWS's National Bald Eagle Management Guidelines (72 FR 31156) and regulatory definition of the term "disturb" (72 FR 31132) published in the Federal Register on June 5, 2007 (<http://www.fws.gov/southwest/es/arizona/BaldEagle.htm>), as well at the Conservation Assessment and Strategy for the Bald Eagle in Arizona (SWBEMC.org).

We encourage you to coordinate the review of this project with the Arizona Game and Fish Department. Thank you for your continued coordination. No further section 7 consultation is required for this project at this time. Should project plans change, or if information on the distribution or abundance of listed species or critical habitat becomes available, this determination may need to be reconsidered. In all future correspondence on this project, please refer to consultation number 02EAZZ00-2017-I-0805.

Should you require further assistance or if you have any questions, please contact Scott Richardson at (520) 670-6150 (x242).

Sincerely,



Steven L. Spangle
Field Supervisor

cc (hard copy):

Field Supervisor, Fish and Wildlife Service, Phoenix, AZ (2 copies)
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ

cc (electronic copy):

Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ (pep@azgfd.gov)
Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ (Attn: John Windes)
Rebecca Sawyer, Excelsior Mining Arizona, Inc. (rsawyer@excelsiormining.com)

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